



U.S.S.N. 09/724,726
HADLACZKY *et al.*
ELECTION

B²

58. (Amended) A method of producing a transgenic plant, comprising:
introducing a DNA fragment into a first cell, wherein the DNA
fragment comprises a selectable marker;
growing the cell under selective conditions to produce cells that
have incorporated the DNA fragment into their genomic DNA; and
selecting a cell that comprises a satellite artificial chromosome
(SATAC);
isolating the SATAC and introducing it into a plant cell; and
growing the plant cell under conditions to produce a transgenic
plant.

REMARKS

Any fees that may be due in connection with this application may be charged to Deposit Account No. 50-1213. If a Petition for extension of time is needed, this paper is to be considered such Petition.

Claims 50-52, 58-61, 65-67 and 72 are pending in this application. Claims 1-49, 53, 54, 62-64, 68-71 and 73, which are drawn to non-elected subject are cancelled without prejudice or disclaimer. Applicant reserves the right to file a divisional application to the subject matter of the cancelled claims. In view of the traversal of the Restriction Requirement, all claims of groups VI and VIII are retained. Claims 50 and 58 are amended to recite to incorporate limitations from the preamble into the body of the claim. Therefore, no new matter is added.

Marked up claims in accord with 37 C.F.R. §1.121 are attached hereto.

Traversal of the Requirement for Restriction

The requirement for restriction is respectfully traversed as between groups IV, VI and VIII, and also with respect to the requirement to elect on nucleic acid fragment in Group II. In order for restriction to be proper, the restricted subject matter must be independent or distinct **AND** there must be a burden on the Office to examine the claims in the same application.